
**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS COMMERCE COMMISSION)	
)	
On Its Own Motion)	
)	
v.)	No. 07-0166
)	
COMMONWEALTH EDISON COMPANY)	
)	
Investigation of Rate Design Pursuant to)	
Section 9-250 of the Public Utilities Act)	

**PETITION FOR REHEARING AND RECONSIDERATION
OF
THE BUILDING OWNERS AND MANAGERS ASSOCIATION OF CHICAGO**

Michael Munson
Law Office of Michael A. Munson
123 North Wacker Drive, Suite 1800
Chicago, Illinois 60606
312/474/7872 – (direct)
312/873/4154 – (facsimile)
michael@michaelmunson.com

Date: November 12, 2007

ORAL ARGUMENT REQUESTED

The Building Owners and Managers Association of Chicago (“BOMA”), by its attorneys, the Law Office of Michael A. Munson, respectfully submits its Petition for Rehearing and Reconsideration pursuant to Section 200.880 of the Rules of Practice of the Illinois Commerce Commission (the “Commission”). In support of this petition, BOMA states as follows:

A. Introduction

On March 2, 2007, the Commission initiated the within proceeding for the purpose of investigating the post-2006 rate design of Commonwealth Edison Company (“ComEd”), with the view toward ordering any changes in rate design necessary to make ComEd’s rate structure more just and reasonable. (Initiating Order at pg. 3). Before the Administrative Law Judge on June 11, 2007 the parties waived cross-examination of witnesses and entered affidavits of written testimony and exhibits. On October 11, 2007, the Commission entered its final order (the “Order”) in the subject proceedings.

Despite the mandate of ordering rate design changes to be more just and reasonable, the Order does not provide any mitigation of the exceptional rate shock experienced as shown in this proceeding to the nonresidential electric space heating customers, nor does the Order provide any substantial basis for excluding the nonresidential space heating customers from the rate relief measures provided exclusively to other customer classes. As demonstrated in this proceeding, the nonresidential space heating customers continue to face the largest rate increases of any customer class which has provided estimates in this proceeding, and continue to be the only customer class which has not been afforded meaningful rate relief. The recently enacted Senate Bill 1592, with amendments thereto, affords almost no rate relief to the nonresidential ComEd customers despite providing a \$1 billion package for rate relief. The real rate shock of nonresidential electric space heating customers has not been equitably addressed.

BOMA has asserted that ComEd's discontinuance of Rider 25 service, a distinct and identifiable service which service exempted nonresidential and other space heating customers from demand charges during non-summer months, was effected in contravention of Section 16-103(a) of the Act and that such discontinuance is unlawful. (BOMA Initial Brief at pp. 10-15). Even if ComEd had properly sought to eliminate Rider 25 service, such elimination is not justified on the basis of cost studies provided by ComEd. (BOMA Reply Brief at pg. 6). The Order does not meaningfully address any of BOMA's rate shock issues, and makes no significant findings of fact on the legal issues concerning ComEd's abandonment of a distinct and identifiable electric space heat rate that is provided in form to residential customers, but not to nonresidential customers.

BOMA has further asserted that the exclusion of the nonresidential space heating customers from rate relief under Rider CABA is contrary to the mandates of Sections 9-241 and 9-250 of the Act. (BOMA Initial Brief at pg. 16; BOMA Reply Brief at pg. 8). A simple solution to prevent unlawful discrimination between customer classes, the Commission, alternatively or additionally, should remand this proceeding and order ComEd to specifically redress the nonresidential space heating class and provide such similarly situated customers the same terms according to Rider CABA. (BOMA Initial Brief at pg. 17).

B. The Order Erred by Permitting ComEd to Eliminate Rider 25 Service, and the Elimination of Differential Rate Treatment for Nonresidential Space Heating Customers is Inconsistent with Historical Rate Structure and with Good Ratemaking Principles

Rider 25 is a separate and distinct tariffed service within the meaning of Section 16-103(a) of the Act (BOMA Initial Brief at pp. 12-13). The Commission has not declared Rider 25 service competitive (BOMA Initial Brief at pg. 12), and ComEd has not petitioned for or sought the right to abandon the service under Section 8-508 of the Act (BOMA Initial Brief at pp. 13-

14). As a result, ComEd's elimination of Rider 25 service was not effected in compliance with Section 16-103(a) of the Act and is unlawful. (BOMA Initial Brief at pp. 13-15).

No party in this proceeding has argued that the 88% increase experienced by the nonresidential space heating customers is just and reasonable within the purview of the Act. BOMA further asserted, and no party refuted, there is absolutely no assurance that the non-electric space heating customers will be assured of obtaining electricity from alternative suppliers to mitigate the impact. (BOMA Reply Brief at pg. 5). Moreover, it is ComEd's rates, and not the alternative suppliers' rates, which are the subject of this proceeding, and it is ComEd's rates which must be just and reasonable. (220 ILCS 5/9-101). The Commission cannot, as the Order purports to do, approve unlawful, unjust or unreasonable rates.

The rate shock experienced by the nonresidential space heating customers following the elimination of Rider 25 is indicative of improper rate design and that the use, as in the present case, of allocated cost of service studies for the purpose of determining prices is inconsistent with good ratemaking principles. (BOMA Initial Brief at pp. 15-16) The continuation of Rider 25 service, which has been in existence for over three decades, properly reflects the Commission's stated goal of considering historical rate structures and that the elimination of such service improperly departs from traditional ratemaking. (Initiating Order at pg. 4; BOMA Initial Brief at pp. 15-16).

C. The Commission Errs by Failing to Conclude that Rate Relief was not Provided to All Impacted Customers as Required by Section 9-241 of the Act

Unlike other customer classes, which classes receive the benefits of the Lazare Rate Mitigation Plan or other mitigation features, the nonresidential space heating customers with peak monthly loads greater than 400 kW are afforded no such mitigation measures or features

(BOMA Direct Panel Testimony p. 10 ll. 203-205). Although Rider 25 applied to both residential and nonresidential space heating customers, only residential space heating customers have been afforded rate relief (i.e. pursuant to Docket No. 07-0285). (BOMA Reply Brief at 14). The failure to provide rate relief to the nonresidential space heating customers while providing such relief to other customer classes violates the provisions of Section 9-241 of the Act.

There is no just reason to exclude BOMA from eligibility under Rider CABA (BOMA Initial Brief at 9) or to provide more favorable rate treatment for the condominium customer class, whose post-2006 rate shock is materially reduced under Rider CABA. It is unfair and discriminatory that, unlike BOMA's constituents, the condominium customers eligible to take service under Rider CABA were not required to submit quotes from alternative suppliers in order to receive meaningful rate relief. (BOMA Reply Brief at 8-9).

D. The Order Should be Revised to Provide for the Relief Requested by BOMA

Accordingly, BOMA respectfully requests that the Commission revise the Order to provide that:

- (a) ComEd must reinstate and continue to provide Rider 25 service as the same was provided prior to its elimination in Docket No. 05-0597 and that the nonresidential space heating customers should be exempted from non-summer month demand charges (i.e. distribution facilities charges) on electricity used for space heating customers;
- (b) ComEd must reduce electricity demand charges for nonresident electric space heating customers in the 400-1000 kw, 1,000-10,000kw and 10,000kw + delivery service classes by an amount equal to the average percentage of non-summer demand from electric space heating customers in each customer class; and
- (c) ComEd must revise Rider CABA so as to make the nonresidential space heating customers eligible for service thereunder so as to provide the same rate relief to such customer as is provided to other eligible customers under Rider CABA .

E. Conclusion

WHEREFORE, for the reasons above stated, BOMA respectfully requests that the Commission revise the Order as hereinabove provided and grant the within Petition for Rehearing and Reconsideration.

Respectfully submitted,

THE BUILDING OWNERS AND MANAGERS
ASSOCIATION OF CHICAGO

A handwritten signature in black ink, appearing to read "Michael Munson", written in a cursive style.

By: Michael Munson, its attorney

Michael Munson
Law Office of Michael A. Munson
123 North Wacker Drive, Suite 1800
Chicago, Illinois 60606
312/474/7872 – (direct)
312/873/4154 – (fax)
michael@michaelmunson.com

Dated: November 12, 2007